

ELISA HYMAN, P.C.

September 20, 2021

BY ECF

The Honorable Colleen McMahon, U.S.D.J.
 United States District Court - Southern District of New York
 500 Pearl St.
 New York, NY 10007

Re: *A.S. et al., v. New York City Department of Education, et al.*,
 21-cv-867 (CM)

Dear Judge McMahon:

I represent the Plaintiffs in the above-referenced action and am writing jointly with Defendants to respectfully request an adjournment of the initial conference currently scheduled for September 23, 2021 and a corresponding adjournment of the deadline for the parties to submit a Case Management Plan. Docket Entry 22. This is the parties' third adjournment request, and the Court has granted the parties' prior requests. Docket Entries 18, 19, 21, 22.

This is an action *inter alia* pursuant to the Individuals with Disabilities Education Improvement Act ("IDEA"), 20 U.S.C. § 1400 *et seq.*, in which Plaintiff parent, A.S., alleges that Defendants failed to implement impartial hearing orders over the course of several school years with regards to Plaintiff D.S., a young girl with 18Q deletion syndrome. As a result of her health condition, D.S. has pervasive developmental delays and requires extensive services to access the curriculum.

The parties would like to continue exploring the opportunity of settlement of this action and are optimistic that a settlement is possible.¹ To aid in settlement discussions, Defendants have provided Plaintiffs with service accounting information. Last week, Plaintiffs requested additional information, which Defendants are working to obtain. As Your Honor might imagine, these past few months have been a particularly busy time for the New York City Department of Education ("DOE") with the start of a new school year and return to in-person learning. Thus, it is taking some additional for the DOE to investigate and obtain the requested information. Additionally, Plaintiffs recently served a non-party document subpoena on the non-public school that D.S. attended during the school years in question but have not yet received a response to our document request. The information that the DOE is gathering and the non-party documents requested pursuant to the subpoena are necessary for the parties to attempt to try to settle this action without additional court intervention.

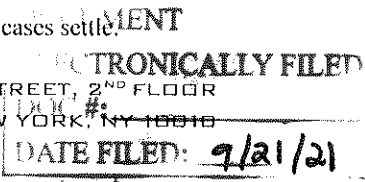
Additionally, Plaintiffs are still investigating whether issues concerning the new school year and a recent impartial hearing order necessitate a request to amend the complaint. Defendants will continue to discuss new issues or concerns that arise with Plaintiffs in an

¹ The parties regularly litigate IDEA cases together and the overwhelming majority of cases settle.

1115 BROADWAY, 12TH FL.
 NEW YORK, NY 10010

WWW.SPECIALEDLAWYER.COM

42 WEST 24TH STREET, 2ND FLOOR
 NEW YORK, NY 10010



9/21/21 OK - we will reschedule
 Send status report by 10/22

attempt to resolve them without further intervention from the court. In fact, over the summer, Defendants' counsel assisted in placing D.S. in a non-public school.

At this time, the parties believe that a conference with Your Honor is premature as we endeavor to work amicably to try to resolve this matter. For these reasons, the parties respectfully request an adjournment *sine die* of the conference currently scheduled for September 23, 2021. The parties propose submitting a status report no later than October 22, 2021. At that time, the parties will know whether the matter can be resolved through settlement or whether litigation is necessary.

Thank you for Your Honor's consideration of this request.

Respectfully submitted,

Erin O'Connor

Erin O'Connor, Of Counsel
The Law Office of Elisa Hyman, P.C.
Counsel for the Plaintiffs

cc: Carolyn Kruk
James Cullen
Counsel for Defendants, via ECF